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TECH

# Broadcom Ordered by EU to Halt Allegedly Anticompetitive Practices

Move marks the first time European Union regulators have used 'interim measures' since 2001

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By *Daniel Michaels*
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PRINT AA TEXT

BRUSSELS—The European Union ordered semiconductor maker Broadcom Inc. AVGO 1.88% ▲ to stop requiring contract terms with customers that the bloc alleges are anticompetitive, even as a probe into the practices continues—the first time regulators have used such an injunction in 18 years.

The announcement of so-called interim measures against Broadcom marks the first time EU regulators have used the power since 2001 and comes amid tightening European scrutiny of U.S. technology giants.

European Competition Commissioner Margrethe Vestager, who has overseen the EU's regulatory push against Silicon Valley, said Wednesday that Broadcom's contract terms with six main customers would "create serious and irreversible harm to competition" if no action were taken.

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She cited "anticompetitive" contracts for chips used in television set-top boxes and modems, which included exclusivity deals and rebates.

Ms. Vestager had said in June she would issue the injunction against Broadcom if merited by investigations. Broadcom said at the time the probe was without merit.

On Wednesday, Broadcom said it would appeal the commission's order, while complying meanwhile.

"We do not believe that these [allegedly exclusivity-inducing] provisions have a meaningful effect on whether the customers choose to purchase Broadcom products," a company spokesperson said.

Critics have urged the commission to use its interim powers more frequently, because formal competition proceedings can take years. Left unchecked, any anticompetitive behavior could cause permanent damage to a market before authorities pass judgment.

Interim measures, Ms. Vestager said, "are one way of enforcing competition rules in a fast and effective manner, especially in fast-moving markets."

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Ms. Vestager, who has gained international recognition for imposing record fines on tech companies, recently said that financial penalties fail to change how corporations act and she wants to find new measures. Recourse to interim measures is "now on the table—it's a living tool in our toolbox," she said.

Her use of the power comes as antitrust authorities around the world are "beating themselves up over their ability to react quickly to markets," said Alec Burnside, a partner with law firm Dechert in Brussels.

"It's welcome that the commission is reinvestigating this part of its tool kit," said Mr. Burnside, whose clients have fought cases against tech giants including Google.

The lawyer noted that while the Broadcom case involves digital technologies, it is still about the sale of physical products such as microchips to a very small number—six—of its customers.

"There's still the challenge ahead of using the [legal] tools in a digital environment, rather than the supply of physical goods," he said.

Some competition lawyers have said interim measure risks delaying cases further, as the commission will need to fight legal challenges to an order in court before being able to complete the underlying case.

Ms. Vestager said her team has investigated Broadcom for one year, during which the company and third parties responded to questions, and Broadcom made its case at a hearing. Following that, the number of customer agreements targeted were cut to six from seven.

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